

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

CAUSE NO. 1:17CR118-LG-JCG-2

ERIN WOODS

**ORDER DENYING DEFENDANT'S MOTION
SEEKING APPROVAL OF STATEMENT OF EVIDENCE**

BEFORE THE COURT is the [111] Motion Seeking Approval of Statement of Evidence filed by Defendant Erin Woods pursuant to Federal Rule of Appellate Procedure 10(c). Defendant Woods is represented by counsel in the pending appeal of her criminal case,¹ but she filed this Motion on her own behalf. Because she is represented by counsel and is not entitled to hybrid representation, her motion should be denied. *United States v. Pizarro*, 756 F. App'x 458, 460 (5th Cir. 2019).

Considering the merits, Federal Rule of Appellate Procedure 10(c) affords an appellant the opportunity to prepare a "statement of the evidence or proceedings from the best available means," "[i]f a transcript of a hearing or trial is unavailable." Fed. R. App. P. 10(c). Before appellant's proposed statement may be filed with the district court, she is required to serve the proposed statement on the appellee, in this case the Government. *Id.* The appellee may then "serve objections or propose [an] amendment within 14 days." *Id.* "[T]he statement and any

¹ Woods' appeal is proceeding under Fifth Circuit Court of Appeals number 19-60597.

objections or proposed amendment must then be submitted to the district court for settlement and approval.” *Id.* Only once the district court settles and approves the statement is it made part of the record on appeal. *Id.*

Although Defendant appears to have followed the procedure outlined in Rule 10(c), the Rule is inapplicable here. It provides the mechanism to supplement the record “[i]f the transcript of a hearing or trial is unavailable.” *See id.* However, the transcript of the change of plea hearing and the sentencing hearing are both filed of record in this case, and they constitute the best means of showing what occurred. *See id.* In addition, Defendant’s Statement of Evidence is not a statement of the proceedings. Defendant refers to events outside of the hearings and presents arguments. (*See* ECF No. 112-1.) There is no challenge to the validity or accuracy of the transcripts. For all of these reasons, Defendant’s Motion will be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that the [111] Motion Seeking Approval of Statement of Evidence filed by Defendant Erin Woods is **DENIED.**

SO ORDERED AND ADJUDGED this the 9th day of January 2020.

s/ *Louis Guirola, Jr.*
Louis Guirola, Jr.
U.S. District Judge